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 Federal Communications Commission
 Washington, D.C. 20554

DISPATCHED BY

MM Docket No. 94-57

In the Matter of

Amendment of Section 73.202(b), RM-8467
 Table of Allotments,
 FM Broadcast Stations.
 (Sanger and Sherman, Texas)

REPORT AND ORDER
(Proceeding Terminated)

Adopted: June 12, 1995;

Released: June 19, 1995

By the Chief, Allocations Branch:

1. At the request of Harmon G. Husbands ("Husbands"), licensee of Station KWSM(FM) and proposed Assignor, along with Durant Broadcasting Corporation proposed Assignee ("Durant") of Station KWSM(FM), Channel 281A, Sherman, Texas, the Commission has before it the *Notice of Proposed Rule Making*, 9 FCC Rcd 3271 (1994), proposing the substitution of Channel 281C3 for Channel 281A at Sherman, the reallocation of Channel 281C3 from Sherman to Sanger, Texas, and modification of Station KWSM(FM)'s license to specify Sanger as the community of license. Husbands filed untimely comments and a motion to accept late-filed supplemental comments.¹ Durant, Husbands and the Davis Family Trust submitted late-filed reply comments.²

2. We believe that it is in the public interest to substitute Channel 281C3 for Channel 281A at Sherman, and to reallocate Channel 281C3 from Sherman (which is part of the Denison-Sherman Urbanized Area) to Sanger, Texas, and to modify Station KWSM(FM)'s license accordingly since this would result in a preferential arrangement of allotments pursuant to the Commission's change of community procedure. *See Modification of FM and TV Authorizations*

to Specify a New Community of License, 4 FCC Rcd 4870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990). Under those procedures, we compare the existing arrangement of allotments with the proposed arrangement of allotments using our FM allotment priorities.³

3. In making this comparison, we find that the proposed reallocation of Channel 281C3 from Sherman to Sanger triggers priority 3 because Sanger (population of 3,508)⁴ would be provided with its first local aural transmission service. By contrast, retention of the existing arrangement of allotments would not trigger priority 3 since, in addition to KWSM(FM), Stations KIKM(FM), KXEB(AM) and KJIM(AM) are also licensed to service Sherman.⁵ Our engineering analysis determined that the reallocation will enable Station KWSM(FM), from its new proposed site, to upgrade its station and provide reception service to an additional 223,209 persons. The removal of Station KWSM(FM) will create a reception service loss area that includes 79,137 persons. However, our concerns about this loss area are mitigated by the fact that all of the population located in this loss area will continue to receive at least five full-time aural reception services.

4. Channel 281C3 can be allotted to Sanger in compliance with the Commission's minimum distance separation requirements with a site restriction of 10.3 kilometers (6.4 miles) northwest to accommodate petitioner's desired site.⁶ In accordance with the provisions of Section 1.420(i) of the Commission's Rules, we will modify the license of Station KWSM-FM to specify Sanger, Texas, as its community of license on Channel 281C3, in lieu of its use at Sherman, Texas.

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective August 3, 1995, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the community listed below, to read as follows:

City	Channel No.
Sherman, Texas	244A
Sanger, Texas	281C3

6. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Davis Family Trust for Station

¹ Husbands filed comments restating his expression of interest in the allotment of Channel 281C3 to Sanger, as well as an engineering study depicting the loss and gains areas created by their proposal. We will accept Husbands' comments since the allotment is unopposed and can be made without adversely affecting any other proposal.

² At the time this proposal was filed Durant was the proposed Assignee of Station KWSM(FM) at Sherman, Texas. However, since that time the Commission has dismissed Durant's application for assignment of license for Station KWSM(FM), therefore we need not consider Durant's comments which merely restated its intention to apply for Channel 281C3, if allotted. Husbands filed comments advising the Commission that the Davis Family Trust is presently the proposed assignee of Station KWSM(FM) and has contributed funds for the technical study submitted in support of this proposal. Davis filed comments advising the Commission of the grant of the assignment of license application for Station KWSM(FM) from Harmon G.

Husbands, Receiver, to the Davis Family Trust on November 29, 1994, and consummated on February 3, 1995. These comments were not accompanied by a motion to accept. However, since these comments simply confirm Davis' continuing interest in pursuing the modification proposal initiated by Husbands and Durant, no prejudice will ensue from their acceptance.

³ The FM allotment priorities are: (1) first full-time aural service; (2) second full-time aural service; (3) first local service, and (4) other public interest matters. [Co-equal weight is given to priorities (2) and (3)]. *See Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982).

⁴ Population figures are from the 1990 U.S. Census.

⁵ We note that the Denison-Sherman Urbanized Area will continue to receive aural services from five local commercial AM and FM stations. Stations KDSQ(FM) and KDSX(AM) are licensed to Denison-Sherman.

⁶ The coordinates for Channel 281C3 at Sanger are North Latitude 33-25-10 and West Longitude 97-15-28.

KWSM(FM), IS MODIFIED to specify operation on Channel 281C3 at Sanger, Texas, in lieu of Channel 281A at Sherman, Texas, subject to the following conditions:

- (a) Within 90 days of the effective date of this *Order*, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301).
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620.
- (c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

7. Pursuant to Commission Rule Section 1.1104(1(k) and (2)(k), any party seeking a change of community of license of an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Davis Family Trust, licensee of Station KWSM(FM), is required to submit a rule making fee in addition to the fee required for the applications to effect the change in community of license and/or upgrade.

8. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

9. For further information concerning this proceeding, contact Pam Blumenthal, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau